

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

MARGARET DABNEY BURNETT,

Plaintiff,

V.

SUBARU OF AMERICA, INC.,

and

**TERRY INC., d/b/a TERRY
VOLKSWAGEN + SUBARU,**

Defendants.

Case No. 6:24-cv-00042

**REPORT OF RULE 26(f) CONFERENCE AND JOINT DISCOVERY PLAN & JOINT
MOTION TO MODIFY SCHEDULING ORDER [ECF NO. 40]**

NOW COME the parties, by their respective counsel, pursuant to this Court's Scheduling Order [ECF No. 40], and jointly file this preliminary discovery plan following the Rule 26(f) Conference held among counsel, and further respectfully request that the proposed deadlines in the Scheduling Order [ECF No. 40], be modified as set forth below:

1. **Proposed Modification of Pretrial Deadlines.**¹ The parties conferred during their Rule 26(f) conference and, pursuant to the instructions set forth in this Court’s Scheduling Order [ECF No. 40], and based on a February 23-25, 2026 trial date [ECF No. 38], respectfully request that the deadlines set forth therein be modified as follows:

a. Exchange Initial Disclosures – May 23, 2025

¹ An asterisk (*) indicates the deadline is unchanged from the Court's original deadline in the Scheduling Order [ECF No. 40].

- b. Plaintiff's Expert Disclosures² – September 26, 2025
- c. Defendant's Expert Disclosures – November 10, 2025
- d. Rebuttal Expert Disclosures – November 24, 2025
- e. Deadline to Complete Discovery* – November 25, 2025
- f. Deadline to File Dispositive & *Daubert* Motions* – December 10, 2025
- g. Deadline for Hearing on Dispositive & *Daubert* Motions* – January 9, 2026
- h. Deadline to File Motions in Limine – January 6, 2026
- i. Deadline for Hearing on Motions in Limine* – February 6, 2026

2. Subjects on Which Discovery May be Needed. The Parties anticipate that they will need discovery regarding the facts regarding Plaintiff's claims and damages asserted in the Complaint, and Defendants' respective defenses asserted in their Answers. The Parties do not believe discovery in this case should be conducted in phases.

3. Disclosure or Discovery of Electronically Stored Information. The Parties have agreed that no express ESI protocol is necessary at this time. The Parties will address such a protocol if a need arises. The Parties agree that documents and/or other information requested in discovery, or identified in pretrial disclosures, will be produced in .pdf format, with the exception of Excel or other spreadsheet documents, which will be produced in native format. The Parties further agree to preserve any metadata from electronic files and reserve the right to request such data in discovery.

4. Claims of Privilege and/or Protection of Trial Preparation Materials. The Parties have agreed that all documents or information to which privilege or work-product

² These expert disclosures include both retained and non-retained experts for the parties as contemplated by Paragraphs 16-17 of this Court's Scheduling Order [ECF No. 40].

protection is claimed will be identified on a log made within a reasonable time following the filing of objections to discovery made under the Federal Rules of Civil Procedure and the Rules of the U.S. District Court for the Eastern District of Virginia; however, the Parties agree that no such document or information need be logged if it was created on or after the Defendants received notice of Plaintiff's claim.

Documents that contain privileged information or work product shall be immediately returned if the documents appear on their face to have been inadvertently produced or if there is notice of the inadvertent production. All copies of such inadvertently-produced documents shall be returned or destroyed by the receiving party without any review or analysis except what is necessary to determine the privileged nature of the documents.

5. Limitations on the Scope of Discovery. The Parties agree that the scope of discovery shall be limited as provided under Rule 26(b) of the Federal Rules of Civil Procedure. Other applicable limitations shall be provided under Rules 30, 33, 34, and/or 36 of the Federal Rules of Civil Procedure.

6. Protective Order. The Parties agree to work together to submit an agreed Protective Order if the need arises.

7. Depositions. The Parties shall make reasonable efforts to coordinate the scheduling of depositions with opposing counsel and will be governed by the applicable rules regarding scheduling. Each Party may take the deposition of five (5) non-party witnesses and reserve the right to request additional depositions if the need so arises.

8. Other Orders. The Parties do not contemplate any need for the Court to issue additional orders under Rule 26(c), Rule 16(b), or Rule 16(c).

9. Early Settlement or Resolution. The Parties believe that they would benefit from an order referring this matter to a settlement conference before the magistrate judge as contemplated in Paragraph 20 of this Court's Scheduling Order with such settlement conference to occur in July or August after the parties have had an opportunity to engage in some discovery and conduct an inspection of the subject vehicle.

Dated: May 5, 2025

SUBARU OF AMERICA, INC.

By: /s/ Laura May Hooe
Laura May Hooe, Esq. | VSB # 84170
Klein Thomas Lee & Fresard
Three James Center
1051 E Cary Street, Suite 1430
Richmond, VA 23219
Phone: (703) 577-6644
Email: laura.hooe@kleinthomaslaw.com
Counsel for Subaru of America, Inc.

SEEN AND AGREED TO:

/s/ James B. Feinman (with permission)
James B. Feinman, Esq. (VSB No. 28125)
James B. Feinman & Associates
P.O. Box 697
Lynchburg, VA 24505
Telephone: (434) 846-7603
Facsimile: (434) 846-0158
jb@jfeinman.com
Counsel for Plaintiff

SEEN AND AGREED TO:

/s/ M. Paul Valois (with permission)_____

M. Paul Valois, Esq.
James River Legal Associates
7601 Timberlake Road
Lynchburg, VA 24502
mvalois@vbclegal.com
Counsel for Terry Inc., d/b/a
Terry Volkswagen + Subaru

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2025, I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will provide notice of the same to all counsel of record.

/s/ Laura May Hooe_____
Of Counsel